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February 6, 2013

Honorable Gary R. Brown
Hon. Alphonse M. D'Amato Federal Courthouse
100 Federal Plaza
Central Islip, NY 11722

RE: *Tyno Thomas individually and on behalf of all others similarly situated v. Omni Credit Services, Inc.* 12- CV- 6219 (JFB)(GRB)

Honorable Judge Brown,

I represent the Plaintiff in the above referenced matter. The Plaintiff brings this putative class action on behalf of himself and all others similarly situated alleging violations of the Fair Debt Collection Practices Act. (15 USC 1692 et al). Please accept this letter as a request to proceed with discovery.

On December 19, 2012, Defendant was served with the Summons and Complaint in this matter. Service occurred via the New York Secretary of State. The Defendant has not filed an answer or appeared in the action. The undersigned has additionally notified the Defendant via letter that they have failed to appear. It is apparent that the Defendant does not intend to participate in the defense of this action.

While the Defendant's default establishes the facts alleged in the complaint, Plaintiff needs to acquire certain additional information (via Rule 45 based discovery) in order to move for class certification pursuant to Rule 23, and to help establish statutory damages. Plaintiff requests permission to proceed with such discovery. See *DeNicola v. Asset Recovery Solutions, LLC*, 2011 U.S. Dist. LEXIS 61976 (E.D.N.Y. May 18, 2011)(Hon. Judge A. Tomlinson); *Campbell v. Soma Fin. Inc.*, No. 08-CV-00170, 2008 U.S. Dist. LEXIS 104359, 2008 WL 5247960 (E.D. Cal. Dec. 12, 2008).

After acquiring the necessary information, Plaintiff intends to move for class certification (if appropriate) and a default judgment against Defendant. The determination as to whether the default judgment shall be entered on behalf of the individual Plaintiff or the class must await the class discovery. See, *Williams v. Goldman & Steinberg, Inc.*, No. CV 03-2132, 2006 U.S. Dist. LEXIS 50222, 2006 WL 2053715 (E.D.N.Y. July 21, 2006).

Plaintiff respectfully requests permission to proceed with discovery via Rule 45.

Sincerely,

Joseph Mauro